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EXAMINER	
KLEIN, GABRIEL J	
ART UNIT	**PAPER NUMBER**
3641	

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/762,130	SPEAKS, SAMUEL EDWIN	
	Examiner	Art Unit	
	Gabriel J. Klein	3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention:

A. Fulcrum

a. The embodiment with a longitudinal slot (figure 3, element 170)

b. The embodiment without a longitudinal slot (specification: page 13, line 4)

B. Trigger Shim

a. The embodiment with a trigger shim (figure 10, element 140)

b. The embodiment without a trigger shim (figure 12)

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution **(one from both A and B)** on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1 and 19 are considered generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with James Eaves on November 7, 2005 a provisional election was made without traverse to prosecute the invention of a gun trigger actuator comprising a fulcrum with a longitudinal slot and a trigger shim, claims 1-9 and 11-20. Mr. Eaves did not indicate if the election was with or without traverse. Therefore, the examiner considers the election as being without traverse. Affirmation of this election must be made by applicant in replying to this Office action. Claim 10 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 6, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackson (4553347).

In reference to claim 1, Jackson discloses a gun trigger actuator comprising a fulcrum (figure 11, element 10), which can rotate between a trigger engaging position and a passive position (column 2, 1st paragraph and lines 52-68 and figure 11).

Jackson further discloses that said gun trigger actuator comprises a pivot pin (column 2, lines 36, 61, and 62), where said fulcrum inherently has a front end, a back end, a top face, a bottom face, a left side, and at least one aperture toward said front end (figure 11, element 12). Said front end being defined as the end having said aperture. Said back end being the end opposite said front end. Said top face being the face facing away from said trigger in figure 11. Said bottom face being the face facing the trigger in figure 11.

Further, where said fulcrum is mounted on the trigger guard below the trigger bottom end in a passive position, said front end rotatably secured by said pivot pin forward of the trigger bottom end (figure 11: shows both passive position, in phantom, and active position) and said back end extending rearwardly along and above said trigger guard (column 2, lines 52-68). Although said back ends rearward orientation is not shown in the figures it should be appreciated that said back end is capable of such an orientation as set forth in column 2, lines 52-68.

Jackson further discloses that when said fulcrum is in said passive position, the rifle may be fired by manually applying rearward pressure to the trigger.

Jackson further discloses that where said fulcrum rotates on said pivot pin to an active position where said fulcrum back end extends upward at an angle forward of said trigger bottom end (figure 11).

Jackson further discloses that said gun trigger actuator can be installed on **any** rifle (column 1, line 44) and that when said fulcrum is in said active position and the lever (of a lever operated rifle) is in a closed position, said bottom face is capable of being in contact with said trigger (column 2, lines 52-68) and said fulcrum therefore exerting rearward pressure on said trigger. Due to the complete adjustability of said fulcrum (column 2, lines 52-68) it should be appreciated that said rearward pressure can be adjusted to an amount sufficient to cause the rifle to fire. Furthermore, said fulcrum is capable of adjustment to a position (said active position) wherein the rifle may be fired by closing the lever (which the gun trigger actuator attached to). As can be seen in figure 11, the gun trigger actuator of Jackson is curved in a way such that it could easily be positioned to contact said trigger on said bottom face, and actuate said trigger, upon closing of the lever.

In reference to claim 2, Jackson further discloses a fulcrum that has a front end, a back end, a top face, a bottom face, a left side, and at least one aperture toward said front end (figure 11, element 12). Said front end being defined as the end having said aperture. Said back end being the end opposite said front end. Said top face being the face facing away from said trigger in figure 11. Said bottom face being the face facing the trigger in figure 11.

In reference to claim 3, Jackson further discloses a gun trigger actuator comprising at least one pivot pin inherently received by said aperture (column 2, lines 36, 61, and 62).

In reference to claim 6, Jackson further discloses a fulcrum that is shaped to allow rotation of said fulcrum on said trigger guard (column 2, lines 52-68 and figure 11).

In reference to claim 19, Jackson discloses a gun trigger actuator for a lever action rifle having a trigger having a trigger bottom end, a lever having a trigger guard and a finger portion, and a receiver, comprising a fulcrum which can rotate between a trigger engaging position and a passive position.

Claims 1-6, 11, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ryan (3101703).

In reference to claim 1, Ryan discloses a gun trigger actuator comprising a fulcrum (figures 2 and 9, element 130, consisting of elements 131-133 and 136), which can rotate between a trigger engaging position and a passive position (figure 2 and column 8, lines 32-37).

In reference to claim 2, Ryan further discloses a fulcrum that inherently has a front end, a back end, a top face, a bottom face, and a left side; as well as at least one aperture toward said front end (column 8,lines 38 and 39). Said front end being the end where said fulcrum is attached to the trigger guard portion of the lever.

In reference to claim 3, Ryan further discloses a gun trigger actuator comprising at least one pivot pin (figure 2, element 131 and column 8, lines 38 and 39).

In reference to claim 4, Ryan further discloses a gun trigger actuator comprising at least one pivot pin, where said at least one pivot pin is received by said aperture (column 8,lines 38 and 39), extends at least partially through the trigger guard portion of the lever (figure 2, element 131), and rotatably secures said fulcrum to the trigger guard portion (figure 2, elements 131 and 130).

In reference to claim 5, Ryan further discloses a gun trigger actuator where said at least one aperture further comprises a first aperture (referenced above) and a second aperture (figure 2, element 132). Said first and second apertures are located on said fulcrum left side and said fulcrum right side respectively. Further, at least one pivot pin extends completely through said lever and is received by said first aperture and said second aperture (figure 2).

In reference to claim 6, Ryan further discloses a gun trigger actuator where said fulcrum is shaped to allow rotation of said fulcrum on said trigger guard (figure 2 and column 8,lines 38 and 39).

In reference to claim 11, Ryan further discloses that said fulcrum has at least one tab extending outwardly (figure 9, element 136 and column 8, line 41) at an angle towards said fulcrum back end (figure 2, element 136).

In reference to claim 19, Ryan discloses a gun trigger actuator for a lever action rifle having a trigger having a trigger bottom end, a lever having a trigger guard and a finger portion, and a receiver, comprising a fulcrum which can rotate between a trigger engaging position and a passive position.

Claims 1, 2, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Savioli (3141254).

In reference to claim 1, Savioli discloses a gun trigger actuator comprising a fulcrum (figure 1, the combination of elements 42 and 50), which can rotate between a trigger engaging position and a passive position (figure 1 and figure 2 respectively).

In reference to claim 2, Savioli further discloses a fulcrum that inherently has a front end, a back end, a top face, a bottom face, and a left side; as well as at least one aperture toward said front end (figures 1, 2, and 4).

In reference to claim 8, Savioli further discloses that said fulcrum has a longitudinal slot in its top face, said longitudinal slot extending towards said front end and said back end (figures 1, 2, and 4). Said slot is the space where the rear of the trigger guard passed through as well as the space where the trigger bottom end resides (figure 4, in between flanges 48).

In reference to claim 9, Savioli further discloses that said longitudinal slot is sized to allow the trigger bottom end to easily travel through said longitudinal slot when rearward pressure is applied to said trigger (figures 1, 2, and 4, and column 2, lines 25-29).

Claims 1-3, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Felk (5678342).

In reference to claim 1, Felk discloses a gun trigger actuator comprising a fulcrum (figure 1, element 22), which can rotate between a trigger engaging position and a passive position (figure 1 and column 2, lines 19-34).

In reference to claim 2, Felk further discloses a fulcrum that inherently has a front end, a back end, a top face, a bottom face, and a left side; as well as at least one aperture toward said front end (figure 1 and column 2, line 20). Said front end being the end where said fulcrum is attached to the trigger guard.

In reference to claim 3, Felk further discloses a gun trigger actuator comprising at least one pivot pin (figure 1 and column 2, line 20).

In reference to claim 6, Felk further discloses a gun trigger actuator where said fulcrum is shaped to allow rotation of said fulcrum on said trigger guard (figure 1 and column 2, lines 19-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7, 12-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jackson (4553347) in view of Rogers (5012604).

In reference to claims 7,12, and 20, Jackson discloses the claimed invention except for the trigger shim. Rogers teaches that it is known to use a trigger shim, installed in the rifle receiver immediately adjacent and forward of the trigger, as set forth in figure 3, elements 78 and 60, column 5, lines 48-50, and the abstract, to provide fine adjustment of the trigger. It should be appreciated that the trigger shim of Rogers is capable of meeting the functional use recitations, set forth in claim 12, of minimizing

unnecessary forward movement of the trigger and of holding the trigger in a rearward position. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the gun trigger actuator as taught by Jackson, with the trigger shim as taught by Rogers, since such a modification would provide the gun trigger actuator with the trigger shim to minimize forward movement of the trigger, holding it in a rearward position, therefore providing a trigger which is immediately acted upon by said gun trigger actuator without any excess motion due to play in said trigger.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mote, Sr (5025582) discloses a gun trigger actuator comprising a fulcrum that has at least one tab extending outwardly at an angle towards said fulcrum back end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabriel J. Klein whose telephone number is 571-272-8229. The examiner can normally be reached on Monday through Friday 7:15 am to 3:45 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

GJK

MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER